



COTTONWOOD HEIGHTS CITY COUNCIL AGENDA

Notice is hereby given that the Cottonwood Heights City Council will hold a Business Meeting beginning at **7:00 p.m. on Tuesday, April 9, 2013**, at Cottonwood Heights City Council Chamber located at 1265 East Fort Union Blvd., Suite 300, Cottonwood Heights, Utah.

7:00 p.m. 1.0 WELCOME/PLEDGE/ACKNOWLEDGEMENTS

2.0 CITIZEN COMMENTS

(Please note: In order to be considerate of everyone attending the meeting and to more closely follow the published agenda times, public comments will be limited to three minutes per person per item. A spokesperson who has been asked by a group to summarize their concerns will be allowed five minutes to speak. Comments which cannot be made within these limits should be submitted in writing to the City Recorder prior to noon the day before the meeting)

3.0 REPORTS/PROCLAMATIONS/RECOGNITIONS

3.1 Recognition of Police Chief Robby Russo

(Chief Russo will be recognized for being awarded the Utah Chiefs of Police Association, Police Chief of the Year)

3.2 Standing Monthly Reports

a. March Police Report – Sheila Jennings

(Review of the Police Department statistics for the month of March)

b. Victim Advocate Report – April Ryce

(The victim assistance coordinator will present a quarterly report on recent activities)

c. Public Works Report – Public Works Director Mike Allen

(Presentation of the monthly public works report detailing the status of various public works and capital projects throughout the City)

4.0 ACTION ITEMS

4.1 Consideration of Resolution No. 2013-11 Declaring Certain Property Surplus

(The City will declare certain property as surplus so that the property may be sold according to state law)

4.2 Consideration of Resolution No. 2013-12 Consenting to Arts Council Standing Sub-Committees

(City code requires the council approve proposed subcommittees for the Arts Council)

4.3 Consideration of Resolution 2013-13 Approving a Reimbursement Agreement with Fourels Investments Co., LLC for Water Usage.

(The City's landscaped island near the intersection of 1300 East and Union Park Avenue is irrigated with water provided by a neighboring landowner. Under this agreement, the City will agree to reimburse that landowner for the water so used)

5.0 CONSENT CALENDAR

Approval of Minutes for March 12, 2013

6.0 **ADJOURN BUSINESS MEETING AND RECONVENE
WORK SESSION IN ROOM 250**

PUBLIC COMMENT PROCEDURE

At each City Council Business Meeting any person wishing to comment on any item not otherwise on the agenda for public comment may address the City Council during the Public Comment period. Any person wishing to comment during the citizen comment period shall request recognition by the Mayor and upon recognition, approach the microphone and state their name and address the body. Any person wishing to comment shall limit their comments to no more than three (3) minutes, unless additional time is authorized by the Mayor. Citizen groups will be asked to appoint a spokesperson, who shall limit their comments to no more than five (5) minutes. All comments shall be directed to the Mayor and City Council. No person addressing the City Council during the comment period shall be allowed to comment more than once during that comment period. Speakers should not expect any debate or dialogue with the Mayor, City Council or City Staff during the meeting.

The Council may choose to limit the amount of time allotted to public comment on a specific issue. In such cases, special procedures for determining who will be allowed to speak and the order of such speakers will be determined by the Council.

On Monday, April 8, 2013, at 5:00 p.m. a copy of the foregoing notice was posted in conspicuous view in the front foyer of the Cottonwood Heights City Offices, Cottonwood Heights, Utah. A copy of this notice was faxed to the Salt Lake Tribune and Deseret News, newspapers of general circulation in the City by the Office of the City Recorder. The Agenda was also posted on the City's website at www.ch.utah.gov and the State Public Meeting Notice website at <http://pmn.utah.gov>

DATED THIS 8th DAY OF APRIL 2013

Kory Solorio, Deputy City Recorder

Council Members may participate in the meeting via telephonic communication. If a Council Member does participate via telephonic communication, the Councilmember will be on speakerphone. The speakerphone will be amplified so that the other Council Members and all other persons present in the Council Chambers will be able to hear all discussions.

In compliance with the Americans with Disabilities Act, individuals needing special accommodations or assistance during this meeting shall notify Kory Solorio, Deputy City Recorder, at (801) 944-7020 at least 24 hours prior to the meeting. TDD number is (801)270-2425 or call Relay Utah at #711. If you would like to submit written comments on any agenda item they should be received by the Deputy City Recorder no later than Tuesday at noon. Comments can be emailed to ksolorio@ch.utah.gov



NOTICE OF COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION AGENDA

Notice is hereby given that the Cottonwood Heights City Council will hold a Work Session at **6:00 p.m. on Tuesday, April 9, 2013**, in the Cottonwood Heights City Council Conference Room located at 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, Utah

- 6:00 p.m.**
1. **Closed Meeting to Discuss Litigation, Property Acquisition and the Character and Professional Competence or Physical or Mental Health of an Individual (45:00)**
 2. **Review of Business Meeting Agenda (5:00)**
- 8:00 p.m.**
3. **Canyons School District Board Update – Kim Horiuchi (20:00)**
(Kim Horiuchi, Canyons School District Board Member, will update the Council on current activities at the Canyons School District)
 4. **Public Relations Report (15:00)**
 - a. Media Coverage
(Public Relations Specialist, Stephanie Archibald, will provide a report on media coverage of city events)
 - b. Valley Journal
(A review of the upcoming articles for future editions)
 5. **Public Works Report (15:00)**
 - a. Help Desk Request
(Public Works Director Mike Allen will discuss a request for a new fire hydrant installation on Comstock Circle)
 6. **Planning Department Report (45:00)**
 - a. Oaks at Wasatch HOA Meeting
(Staff will report on the meeting with the HOA for the Oaks at Wasatch regarding Golden Hills Park)
 - b. 1700 East Sidewalk Project
(Staff will give an update on this project)
 - c. Fort Union/Wasatch Park and Ride
(Staff will discuss the proposed park n ride project at the east end of Fort Union Boulevard and the upcoming open house)
 - d. Options for Allocation of Community Development Block Grant Funding
(Planning Director, Brian Berndt, will lead a discussion with the Council about how to utilize approximately \$80,000 in Community Development Block Grant Funding for fiscal year 2014 and the new rules applicable to this grant)

7. **Public Safety Report (30:00)**
 - a. Unified Fire Authority
(Report from Assistant Chief Mike Watson on events of the week)
 1. Report on Finance Committee Meeting
(Mayor Cullimore is chair of this committee and will report on the meeting held April 19)
 - b. Police Department
(Report from Chief Robby Russo on noteworthy events of the week)
 1. Valley Emergency Communications Center Update
(Chief Russo will discuss merging channels with South Salt Lake for Valley Emergency Communications Center dispatching)
 2. Spillman Server at Valley Emergency Communications Center
(Chief Russo will discuss locating the Spillman server at the Valley Emergency Communications Center for redundancy)
8. **City Manager Report (30:00)**
 - a. Public Works Discussion
 1. County Public Works Contract for Fiscal Year 2014
(The County has presented a proposed contract for Public Works for Fiscal Year 2014. Any changes to public works involving privatization will not occur until the Fall meaning a new contract will be necessary to cover at least the first part of 2014)
 2. Discussion of Public Works Options in 2014
(City Manager, John Park, will update the Council on progress in analyzing options for Public Works providers in 2014 including Granite Construction, TerraCare and Salt Lake County Unified Public Works)
9. **Mayor/City Council Reports (45:00)**
 - a. Long Range Planning Meeting – Councilman Peterson
(Councilman Peterson will report on the monthly coalition for solutions to homeless housing)
 - b. Youth City Council – Councilman Bracken
(Councilman Bracken will report on the Youth City Council meeting held April 4)
 - c. South Salt Lake Valley Mosquito Abatement Meeting – Councilman Tyler
(Councilman Tyler will report on the recent South Salt Lake Valley Mosquito Abatement meeting)
 - d. Salt Lake County Cultural Arts Grant – Mayor Cullimore
(Mayor Cullimore and Public Relations Specialist, Stephanie Archibald, will report on plans to apply for a Cultural Arts Grant to help subsidize our financial commitment to Canyons School District for the expansion of the Auditorium to accommodate Community Arts Programs)
 - e. Council of Governments Meeting – Mayor Cullimore
(Mayor Cullimore will report to the Council on the Monthly Council of Governments meeting held on April 4th)
10. **Calendar of Events (10:00)**
 - a. ULCT midyear conference – April 10-12
 - b. UTA Airport Line Grand Opening – April 13th
 - c. Utah Shake Out - April 17
 - d. Table Top - Utah Shake Out - May 1
11. **Closed Meeting to Discuss Litigation, Property Acquisition and the Character and Professional Competence or Physical or Mental Health of an Individual**
12. **ADJOURN**



PUBLIC WORKS Status Report 4/9/2013

STREET AND SIDEWALK MAINTENANCE

M 10-01 Asphalt Maintenance (S.L. County)

Budget: 603,500

YTD Expenditures: 581,425

Object Code: 11-4415-360

Projected Completion Date: Ongoing

Update Summaries:

4/9 – All asphalt work for this year has been completed

Capital Improvement Projects

CIP 10-01 ADA Ramp Project

Budget: 67,000

YTD Expenditures: 38,500

Object Code: 45-7002-731 **Projected Completion Date:** Ongoing

Update Summaries:

4/9 – Remaining budget has been moved to cover snow removal

CIP 10-03 Signal Upgrades

Budget: 30,000

YTD Expenditures: 0

Object Code: 45-7019-730 **Projected Completion Date:** Ongoing

Update Summaries:

4/9 – Remaining budget has been moved to cover snow removal

CIP 10-04 Cross Gutter Replacement Program

Budget: 38,000

YTD Expenditures: 37,062

Object Code: 45-7012-731

Projected Completion Date: Ongoing

Update Summaries:

4/9 – Work for this year has been completed

CIP Union Park Median Landscape Project**Budget:** 1,200,000.00**YTD Expenditures:****Object Code:** 45 7053 731**Projected Completion Date:** 2013**Update Summaries:**

4/9 – This project is out to bid now. The bids will be opened on April 23rd.
Once we have a contractor a schedule will be created.

CIP 7200 S. Safe Sidewalk Project**Budget:** 40,000**YTD Expenditures:** 38,727**Object Code:** 45 7038 791**Projected Completion Date:** 2013**Update Summaries:**

4/9 – UDOT expects this project to be awarded on April 19 with construction starting mid-May

STORM DRAIN MAINTENANCE (SD)**SD 10-01 Storm Water Capital Facilities Plan Update****Budget:** 15,000**YTD Expenditures:** 0**Object Code:** 45-7024-330**Projected Completion Date:** March 2011**Update Summaries:**

4/9 - Gilson is working on the update now

SD 10-02 Storm Drain Mapping and Condition**Budget:****YTD Expenditures:****Object Code:** 45-7009-733**Projected Completion Date:** Ongoing**Update Summaries:**

4/9 – Our new employees are on board now getting acquainted with our system.
Locating and mapping work continues

CONTRACT SERVICES (CS)

CS10-01 Salt Lake County Public Works Contract

Budget: 780,000

YTD Expenditures: 606,477

Object Code: 11-4415-360 **Projected Completion Date:** Ongoing

Update Summaries

4/9 – The county is only working on critical tasks now due to snow removal costs this year

CS10-02 Trip Hazard Mitigation Contract

Budget: 75,000

YTD Expenditures: 75,000

Object Code: 45 799 7099 000 **Projected Completion Date:** 2012

Update Summaries:

4/9 – Work on this project is complete for this budget year

CS10-03 Cottonwood Heights Recreation Center Contract

Budget: 144,000

YTD Expenditures: 78,358

Object Code: 45-7027-717

Projected Completion Date: Ongoing

Update Summaries:

4/9 – Spring cleanup and startup of water systems

CS10-04 Street Sweeping Contract

Budget: 30,000

YTD Expenditures: 14,358

Object Code: 11-4415-427-415

Projected Completion Date: Ongoing

Update Summaries:

4/9 – Street sweeping will start in the city next week

RESEARCH AND STUDIES (RS)

RS10-01 Storm Water Utility Fee Study

Budget: 7,000

YTD Expenditures: 7,000

Object Code: 11 310 4410 000

Projected Completion Date: Complete

Update Summaries:

4/9 – Study is complete

RECREATION AND BEAUTIFICATION PROJECTS (RB)

RB10-01 Big Cottonwood Canyon Trail Project

Budget: 359,000

YTD Expenditures: 55,745

Object Code: 45 7015 735

Projected Completion Date: 2013

Update Summaries:

4/9 – This project is scheduled to start up again April 22, 2013

PROGRAM IMPLEMENTATION (PI)

PI10-01 Street Lighting Program

Budget: 50,000

YTD Expenditures: 0

Object Code: 45-7020-734 **Projected Completion Date:** June 2011

Update Summaries:

4/9 – Funding for this has been moved to snow removal

PI10-02 50/50 Sidewalk Replacement Program

Budget: 50,000

YTD Expenditures: 17,700

Object Code: 45-7028-717-415 **Projected Completion Date:** June 2011

Update Summaries:

4/9 – Work for residents will start up soon

PI09-03 Traffic Calming Program

Budget: 97,000

YTD Expenditures:

Object Code: 45-7007-730

Projected Completion Date: June 2011

Update Summaries:

4/9 – Updates to the manual have been done

COTTONWOOD HEIGHTS

RESOLUTION No. 2013-11

A RESOLUTION DECLARING CERTAIN PROPERTY SURPLUS

WHEREAS, § 2.150.060 of the COTTONWOOD HEIGHTS CODE (the "*Code*") establishes the procedures for disposal by the city of Cottonwood Heights (the "*City*") of its surplus property; and

WHEREAS, the City's finance director previously has determined the surplus nature of certain City property in accordance with Code §2.150.060(B) and has prepared and presented to the City's city council (the "*Council*") a listing (the "*List*") of such property (the "*Property*") as required by Code §2.150.060(C); and

WHEREAS, the Council met on 9 April 2013 to consider, among other things, (a) reviewing the List; (b) declaring the Property surplus; (c) establishing a minimum bid for each item of the Property that is of greater than nominal value; and (d) approving the method of determining the highest and best economic return to the City of all items of the Property whose reasonable value exceeds \$5,000; and

WHEREAS, after reviewing the List and careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to (a) declare the Property on the List surplus; (b) establish a minimum bid for each item of the Property that is of greater than nominal value; and (c) approve the method of determining the highest and best economic return to the City of all items of the Property whose reasonable value exceeds \$5,000;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council as follows:

1. The Property on the List is hereby declared to be surplus and no longer needed by the City; and
2. All Property on the List is hereby declared to be of nominal value except those items of the Property for which a minimum bid of over \$25.00 is designated on the attached List; and
3. The minimum bid for the remaining items of the Property (i.e.—those items of greater than nominal value) shall be as specified in the "City Council Minimum Bid" column of the List; and
4. The methods of determining the highest and best economic return to the City of all items of the Property whose reasonable value exceeds \$5,000 shall be as shown in the "Proposed Method of Disposition" and the "Method Used to Establish Min Bid Amt" columns of the List, which methods are hereby approved by the Council.

This Resolution, assigned no. 2013-11, shall take effect immediately upon passage.

PASSED AND APPROVED effective 9 April 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the office of the City Recorder this 9th day of April 2013.

RECORDED this ___ day of April 2013.

595632.1

Cottonwood Heights Surplus Property Listing

4/9/2013 12:44

ITEM TYPE	Condition	MODEL - DESCRIPTION	SERIAL #	ORIGINAL DEPARTMENT	PROPOSED METHOD OF DISPOSITION	METHOD USED TO ESTABLISH MIN BID AMT	Date Purchased	"ORIGINAL" VALUE	AS IS RECOMMENDED MINIMUM BID VALUE	CITY COUNCIL MINIMUM BID
desktop computer	good	StarWest PC, Intel Q8300 Quad -core 2.5GHz, 4GB DDR2-1333 RAM, 250GB drive (2-250GB hard drives in RAID1 configuration), NVIDIA GeForce 8800 GTS video card with 640MB RAM and dual-DVI out, Windows XP Professional Service Pack 3, Office 2007 Small Business. Includes power cord, mouse, keyboard.	SN -- 081439	General Government	KSL or Ebay	KLS and Ebay	unknown	500.00	200.00	\$200 OBO
Pickup Truck	good:	Ford F250 pickup truck - 53,063 miles, 5.4L V-8 EFI Engine, Regular Cab, 2 wheel drive, Automatic Transmission, AM/FM Radio, Air Conditioning, Clean Title.	VIN# 1FTNF20L23EC911117	Public Works	KSL	Good Condition / Low Mileage/Retail Value Kelly Blue Book Value: \$7,888 NADA Book Value: \$8,150	Jan-10	\$7,045 (purchase price)	7,500.00	\$7,500 OBO

COTTONWOOD HEIGHTS

RESOLUTION NO. 2013-12

A RESOLUTION APPROVING CREATION OF SUBCOMMITTEES OF THE COTTONWOOD HEIGHTS ARTS COUNCIL

WHEREAS, sections 2.140.401 through 2.140.405 of the COTTONWOOD HEIGHTS CODE (the “Code”) establishes the “Cottonwood Heights Arts Council” (the “*Arts Council*”) for the city of Cottonwood Heights (the “*City*”); and

WHEREAS, Code §§2.140.404 and 2.140.405 provide that the Arts Council may create certain subcommittees, subject to approval by the City’s manager (the “*Manager*”) and the City’s city council (the “*Council*”); and

WHEREAS, the Arts Council has proposed to create subcommittees for:

(a) **Community Theatre**, which would (among other related functions) help select future theatrical productions, locate members for production crews, and help formulate a proposal for paid positions in connection with sponsored theatrical productions in the City;

(b) **Music**, which would (among other related functions) help to locate and bring musical productions, events and activities to the City; and

(c) **Brainstorming/Community Input**, which would (among other related functions) help to determine community desires concerning future arts events and activities in the City; and

WHEREAS, the Manager has approved creation of the foregoing subcommittees (the “*Subcommittees*”), and has requested that the Council also approve creation of the Subcommittees as required by the Code; and

WHEREAS, the Council met on 9 April 2013 to, among other things, consider approving creation of the Subcommittees as proposed; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve creation of the Subcommittees as proposed by the Arts Council and approved by the Manager;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the Subcommittees described above are hereby approved and their creation is hereby authorized.

This Resolution, assigned no. 2013-12, shall take effect immediately upon passage.

PASSED AND APPROVED effective 9 April 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the office of the City Recorder this 9th day of April 2013.

RECORDED this ___ day of April 2013.

595637.1

Cottonwood Heights Surplus Property Listing

4/4/2013 9:40

ITEM TYPE	Condition	MODEL - DESCRIPTION	SERIAL #	ORIGINAL DEPARTMENT	PROPOSED METHOD OF DISPOSITION	METHOD USED TO ESTABLISH MIN BID AMT	Date Purchased	"ORIGINAL" VALUE	AS IS RECOMMENDED MINIMUM BID VALUE	CITY COUNCIL MINIMUM BID
desktop computer	good	StarWest PC, Intel Q8300 Quad -core 2.5GHz, 4GB DDR2-1333 RAM, 250GB drive (2-250GB hard drives in RAID1 configuration), NVIDIA GeForce 8800 GTS video card with 640MB RAM and dual-DVI out, Windows XP Professional Service Pack 3, Office 2007 Small Business. Includes power cord, mouse, keyboard.	SN - 081439	General Government	KSL or Ebay	KLS and Ebay	unknown	500.00	200.00	\$200 OBO
Pickup Truck	good:	Ford F250 pickup truck - 53,063 miles, 5.4L V-8 EFI Engine, Regular Cab, 2 wheel drive, Automatic Transmission, AM/FM Radio, Air Conditioning, Clean Title.	VIN# 1FTNF20L23EC911117	Public Works	KSL	Good Condition / Low Mileage/Retail Value Kelly Blue Book Value: \$7,888 NADA Book Value: \$8,150	Jan-10	\$7,045 (purchase price)	7,500.00	\$7,500 OBO

COTTONWOOD HEIGHTS

RESOLUTION No. 2013-12

A RESOLUTION APPROVING CREATION OF SUBCOMMITTEES
OF THE COTTONWOOD HEIGHTS ARTS COUNCIL

WHEREAS, sections 2.140.401 through 2.140.405 of the COTTONWOOD HEIGHTS CODE (the "*Code*") establishes the "Cottonwood Heights Arts Council" (the "*Arts Council*") for the city of Cottonwood Heights (the "*City*"); and

WHEREAS, Code §§2.140.404 and 2.140.405 provide that the Arts Council may create certain subcommittees, subject to approval by the City's manager (the "*Manager*") and the City's city council (the "*Council*"); and

WHEREAS, the Arts Council has proposed to create subcommittees for:

(a) **Community Theatre**, which would (among other related functions) help select future theatrical productions, locate members for production crews, and help formulate a proposal for paid positions in connection with sponsored theatrical productions in the City;

(b) **Music**, which would (among other related functions) help to locate and bring musical productions, events and activities to the City; and

(c) **Brainstorming/Community Input**, which would (among other related functions) help to determine community desires concerning future arts events and activities in the City; and

WHEREAS, the Manager has approved creation of the foregoing subcommittees (the "*Subcommittees*"), and has requested that the Council also approve creation of the Subcommittees as required by the Code; and

WHEREAS, the Council met on 9 April 2013 to, among other things, consider approving creation of the Subcommittees as proposed; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve creation of the Subcommittees as proposed by the Arts Council and approved by the Manager;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the Subcommittees described above are hereby approved and their creation is hereby authorized.

This Resolution, assigned no. 2013-12, shall take effect immediately upon passage.

PASSED AND APPROVED effective 9 April 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr	Yea ____	Nay ____
Michael L. Shelton	Yea ____	Nay ____
J. Scott Bracken	Yea ____	Nay ____
Michael J. Peterson	Yea ____	Nay ____
Tee W. Tyler	Yea ____	Nay ____

DEPOSITED in the office of the City Recorder this 9th day of April 2013.

RECORDED this ____ day of April 2013.

595637.1

COTTONWOOD HEIGHTS

RESOLUTION No. 2013-13

A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT
WITH FOURELS INVESTMENTS CO., LLC FOR WATER USAGE

WHEREAS, the city council (the "*Council*") of the city of Cottonwood Heights (the "*City*") met on 9 April 2013 to consider, among other things, approving a "Reimbursement Agreement" (the "*Agreement*") with Fourels Investments Co., LLC ("*Fourels*") whereunder the City would reimburse Fourels for water used to irrigate the City's landscaped island in the public right-of-way near the intersection of 1300 East and Union Park Avenue within City's municipal boundaries, on the terms and conditions specified in the Agreement; and

WHEREAS, the Council has reviewed the form of the Agreement, a photocopy of which is annexed hereto as an exhibit; and

WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve the City's entry into the Agreement as proposed;

NOW, THEREFORE, BE IT RESOLVED by the city council of Cottonwood Heights that the attached Agreement with Contractor is hereby approved, and that the City's mayor and recorder are authorized and directed to execute and deliver the Agreement on behalf of the City.

This Resolution, assigned no. 2013-13, shall take effect immediately upon passage.

PASSED AND APPROVED this 9th day of April 2013.

COTTONWOOD HEIGHTS CITY COUNCIL

By _____
Kelvyn H. Cullimore, Jr., Mayor

ATTEST:

Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr	Yea	___	Nay	___
Michael L. Shelton	Yea	___	Nay	___
J. Scott Bracken	Yea	___	Nay	___
Michael J. Peterson	Yea	___	Nay	___
Tee W. Tyler	Yea	___	Nay	___

DEPOSITED in the office of the City Recorder this 9th day of April 2013.

RECORDED this ___ day of April 2013.

595646.1

Reimbursement Agreement (Water Usage—Landscaped Island)

THIS REIMBURSEMENT AGREEMENT (this "*Agreement*") is entered into effective 26 March 2013 by the city of **COTTONWOOD HEIGHTS**, a Utah municipality whose address is 1265 East Fort Union Blvd., Suite 250, Cottonwood Heights, UT 84047 ("*City*"), and by **FOURELS INVESTMENTS CO., LLC**, a Utah limited liability company whose address is 6995 Union Park Centre, Suite 440, Midvale, UT 84047 ("*Owner*").

RECITALS:

A. City owns an island (the "*Island*") that is located in the public right-of-way near the intersection of 1300 East and Union Park Avenue within City's municipal boundaries. The Island contains landscaping, a City sign, and associated lighting and irrigation apparatus and systems.

B. Owner owns the Park Centre II shopping center (the "*Project*") that is adjacent to, and directly to the East of, the Island. Water to the Project is supplied by Jordan Valley Water Conservancy District ("*JVWCD*"), and the Project's water usage is tracked by a JVWCD meter (the "*Meter*") located on the Project.

C. The Island does not have its own water meter or dedicated water supply. Instead, a water line carrying water from the Project irrigates the landscaping on the Island.

D. The parties desire to formalize their agreement by which water will continue to be provided to the Island and City will reimburse Owner for the cost of such water, as provided in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises, the mutual covenants and undertakings of the parties hereto, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. **Owner's Supply of Water to Island.** Conditioned on City's performance of its obligations under this Agreement, Owner shall continue to supply water from the Project's system to the Island as heretofore; provided, however, that Owner may, in its sole discretion, terminate supplying water to the Island at any time upon at least six months' prior written notice to City. The parties acknowledge that the water supply to the Island may be proportionately reduced to the extent that Owner's allocation of water from JVWCD is reduced due to drought, delivery problems, etc. The parties further acknowledge that repairs to or replacement of the supply line from Project's water system to the Island is City's sole responsibility.

Section 2. **City's Reimbursement of Cost.** In the absence of a separate water meter to measure flow from the Project to the Island, the parties agree that so long as Owner supplies water to the Island as heretofore, City will reimburse Owner for a 25% share of JVWCD's charges to Owner for water supplied through the Meter, which currently is charged under JVWCD account no. 8503-107720 to "Fourrels Park #2." Owner shall bill City for such amounts annually in arrears, and shall supply with such billing copies of all JVWCD invoices to Owner detailing the underlying water usage and charges. City shall either reasonably object to such billing or fully pay it within 30 days

after receipt of Owner's invoice.

City may, at its sole option and cost, install a subsidiary water meter on the supply line carrying water from the Project to the Island to more accurately track City's usage, in which event the parties shall reasonably cooperate to appropriately allocate financial responsibility for JVVCD's charges to Owner.

Section 3. **Default; Remedies.** If either party fails to perform any of its obligations hereunder and such conditions are not cured within ten days after written notice thereof by the non-defaulting party, the defaulting party shall be in default, thereby entitling the non-defaulting party to proceed at law and in equity to enforce its rights under this Agreement.

Section 4. **General Provisions.**

(a) **Survival.** The parties' respective rights and obligations hereunder, and all representations and warranties made in this Agreement, all exhibits hereto, and all certificates and documents delivered pursuant hereto, shall survive any closings contemplated by this Agreement.

(b) **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the respective parties hereto.

(c) **Captions.** The headings used in this Agreement are inserted for reference purposes only and shall not be deemed to define, limit, extend, describe, or affect in any way the meaning, scope or interpretation of any of the terms or provisions of this Agreement or the intent hereof.

(d) **Counterparts.** This Agreement may be signed in any number of counterparts with the same effect as if the signatures upon any counterpart were upon the same instrument. All signed counterparts shall be deemed to be one original.

(e) **Severability.** The provisions of this Agreement are severable, and should any provision hereof be void, voidable, unenforceable or invalid, such void, voidable, unenforceable or invalid provision shall not affect the other provisions of this Agreement.

(f) **Waiver of Breach.** Any waiver by either party of any breach of any kind or character whatsoever by the other, whether such be direct or implied, shall not be construed as a continuing waiver of, or consent to, any subsequent breach of this Agreement.

(g) **Cumulative Remedies.** The rights and remedies of the parties hereto shall be construed cumulatively, and none of such rights and remedies shall be exclusive of, or in lieu or limitation of, any other right, remedy or priority allowed by law.

(h) **Amendment.** This Agreement may not be modified except by an instrument in writing signed by the parties hereto.

(i) **Interpretation.** This Agreement shall be interpreted, construed and enforced according to the substantive laws of the state of Utah.

(j) Notice. All notices provided for herein shall be in writing and shall be given by first-class mail, certified or registered, postage prepaid, addressed to the parties at their respective addresses set forth above or at such other address(es) as may be designated by a party from time to time in writing.

(k) Time of Essence. Time is the essence of this Agreement.

(l) Costs. All costs and expenses, including attorneys' fees, incurred by each party in conjunction with this Agreement shall be paid by the party which has incurred such costs and expenses.

(m) Exhibits. The exhibits that are referenced herein and that are attached hereto are an integral part of this Agreement and are incorporated herein by reference.

(n) Integration Clause. There are no representations, warranties, covenants or agreements between the parties as to the subject matter of this Agreement except as are specifically set forth in this Agreement. This Agreement contains the entire agreement between the parties hereto pertaining to the matters that are set forth herein and supercedes all prior agreements, correspondence, memorandum, representations and understandings of the parties related thereto.

(o) Each individual executing this Agreement does thereby represent and warrant to any other individual so signing (and to each other entity for which another individual is signing) that the individual has been duly authorized to deliver this Agreement in the capacity and for the entity that is set forth where he signs.

DATED effective the date first written above.

CITY:

ATTEST:

COTTONWOOD HEIGHTS, a Utah municipality

Linda W. Dunlavy, Recorder

By _____
Kelvyn H. Cullimore, Jr., Mayor

OWNER:

FOURELS INVESTMENTS CO., LLC,
a Utah limited liability company

By: 
Michael D. Liljenquist, Manager

594720.1

MINUTES OF THE CITY COUNCIL MEETING HELD MARCH 12, 2013 AT
COTTONWOOD HEIGHTS CITY HALL

MEMBERS PRESENT: Mayor Cullimore, Councilman Bracken, Councilman Shelton

EXCUSED: Councilman Peterson, Councilman Tyler

STAFF PRESENT: City Manager John Park, Deputy City Manager Linda Dunlavy City Attorney Shane Topham, Police Chief Robby Russo, Director of Public Works Mike Allen, Public Relations Specialist Stephanie Archibald, Community and Economic Development Director Brian Berndt, Assistant Chief Mike Watson, Police Support Specialist Sheila Jennings

ALSO PRESENT: David Browning, Scout Troop 577

1.0 WELCOME/PLEDGE/ ACKNOWLEDGEMENTS

1.1 Mayor Cullimore opened the meeting at 7:00 p.m. and welcomed those attending.

1.2 Councilman Shelton led the Pledge of Allegiance.

1.3 Mayor Cullimore noted that Councilmen Peterson and Tyler were excused to attend a conference in southern Utah.

2.0 CITIZEN COMMENTS

2.1 No comments were given.

3.0 REPORTS/PROCLAMATIONS/RECOGNITIONS

3.1 February Police Report

3.1.1 Police Support Specialist Sheila Jennings reported on the statistics for the month of February. She reviewed the calls for service by source and priority, as well as the response times for each group of calls. Overall the reported crimes were up over the same month last year with an increase primarily in thefts. Crimes were reviewed per district. District 1 showed 12 DUI arrests.

Ms. Jennings said that traffic citations showed a bit of a decrease. DUIs were down slightly and warnings were up slightly. There were 53 traffic crashes, 6 involved personal injury and the balance resulted in property damage ranging from minor to significant.

A complete copy of the report is available on the City's website.

3.2 **Public Works Report**

- 3.2.1 Public Works Director Mike Allen updated the Council on public works activities. He noted that some patching of potholes was done during February, as well as finalizing plans with Midvale on the Union Park median landscape project which is to be completed this year.

The 7200 South safe sidewalk project is continuing. The right of way has been obtained and final plans will be bid in March or April.

The city has been working on the storm drain mapping and the employee responsible for this project recently left employment. Job announcements have gone out for his replacement, as well as for a temporary employee to help complete this project.

A complete copy of this report is available on the City's website.

4.0 **ACTION ITEMS**

4.1 **Consideration of Resolution No. 2013-07 Consenting to an Appointment to the Board of Adjustment**

- 4.1.1 **Motion:** Councilman Shelton moved to approve Resolution No. 2013-07 reappointing Noor Ul-Hasan to the Board of Adjustments for a two year term. The motion was seconded by Councilman Bracken and passed unanimously on a roll call vote.

4.2 **Consideration of Resolution No. 2013-08 Endorsing the Canyon Center Concept Plan**

- 4.2.1 **Motion:** Councilman Bracken moved to approve Resolution No. 2013-08 endorsing the Canyon Center Concept Plan. The motion was seconded by Councilman Mike Shelton and passed unanimously on a roll call vote.

4.3 **Consideration of Resolution o. 2013-09 Approving Entry into an Interlocal Cooperative Agreement with Salt Lake County for the Transfer of Certain Tax Parcels**

- 4.3.1 Councilman Shelton moved to approve Resolution No. 2013-09 which allows Cottonwood Heights to enter into an interlocal cooperative agreement with Salt Lake County for the transfer of certain tax parcels. The motion was seconded by Councilman Bracken and passed unanimously on a roll call vote.

4.4 **Consideration of Resolution No. 2013-10 Approving Entry into an Interlocal Agreement with Salt Lake County for Election Services**

4.4.1 Mayor Cullimore explained that 2013 will be a municipal election for the mayor, and council districts 3 and 4. He noted that the City has been approached to have the election done entirely by mail and will be moving in that direction.

4.4.2 Councilman Bracken moved to approve Resolution No. 2013-10 to enter into an Interlocal Agreement with Salt Lake County for election services. The motion was seconded by Councilman Shelton and passed unanimously on a roll call vote.

5.0 **ADJOURN**

5.1 Councilman Bracken moved to adjourn the business meeting and reconvene the work session. The motion was seconded by Councilman Shelton and passed unanimously on a voice vote. The business meeting adjourned at 7:38 p.m.